

IC 16-41-9

Chapter 9. Communicable Disease: Imposition of Restrictions on Individuals With Certain Communicable or Dangerous Communicable Diseases

IC 16-41-9-1

Imposition of restrictions

Sec. 1. (a) If:

- (1) an individual is diagnosed as having a communicable disease or other disease that is a danger to health;
- (2) after being informed of the diagnosis, the state health commissioner, the state health commissioner's legally authorized agent, or the local health officer determines that the individual presents a serious and present danger to health according to rules adopted under this article; and
- (3) the state health commissioner, the state health commissioner's legally authorized agent, or local health officer obtains a court order for restrictions upon the individual, which may include isolation, based upon a showing of clear and convincing evidence of the serious and present health threat to others posed by the individual;

the state health commissioner, the state health commissioner's legally authorized agent, or the local health officer shall implement the least restrictive but medically necessary procedures to protect the public's health.

(b) A hearing held under this section shall be held in camera at the request of the individual.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-2

Indigents; representation by court appointed counsel

Sec. 2. An indigent individual who is the subject of judicial proceedings under section 1 of this chapter or IC 16-41-6 is entitled to be represented by court appointed counsel.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-3

Infected students; exclusion from school

Sec. 3. (a) The local health officer may exclude from school a student who has a dangerous communicable disease that:

- (1) is transmissible through normal school contacts; and
- (2) poses a substantial threat to the health and safety of the school community.

(b) If the local health officer subsequently determines that a student who has been excluded from school under subsection (a) does not have a dangerous communicable disease that:

- (1) is transmissible through normal school contacts; and
- (2) poses a substantial threat to the health and safety of the school community;

the local health officer shall issue a certificate of health to admit or

readmit the student to school.

(c) A person who objects to the determination made by the local health officer under this section may appeal to the executive board of the state department, which is the ultimate authority. IC 4-21.5 applies to proceedings under this section.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-4

Failure or refusal to follow health directives; petitions

Sec. 4. If a designated health official reasonably believes that a carrier presents a serious and present health threat (as defined in IC 16-41-7-2) by failure or refusal to comply with a health directive, the designated health official may file a petition under section 1 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-5

Mentally ill and dangerous or gravely disabled carriers; detention; reports

Sec. 5. (a) If a designated health official determines that a carrier has a dangerous communicable disease and has reasonable grounds to believe that the carrier is mentally ill and either dangerous or gravely disabled, the designated health official may request:

(1) immediate detention under IC 12-26-4; or

(2) emergency detention under IC 12-26-5;

for the purpose of having the carrier apprehended, detained, and examined. The designated health official may provide to the superintendent of the psychiatric hospital or center or the attending physician information about the carrier's communicable disease status. Communications under this subsection do not constitute a breach of confidentiality.

(b) If the written report required under IC 12-26-5-5 states there is probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, proceedings may continue under IC 12-26.

(c) If the written report required under IC 12-26-5-5 states there is not probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, the carrier shall be referred to the designated health official who may take action under this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-6

Detained carriers; isolation; unauthorized absences

Sec. 6. (a) The chief medical officer of a hospital or other institutional facility may direct that a carrier detained under this article be placed apart from the others and restrained from leaving the facility. A carrier detained under this article shall observe all the rules of the facility or is subject to further action before the committing court.

(b) A carrier detained under this article who leaves a tuberculosis hospital or other institutional facility without being authorized to leave or who fails to return from an authorized leave without having been formally discharged is considered absent without leave.

(c) The sheriff of the county in which a carrier referred to in subsection (b) is found shall apprehend the carrier and return the carrier to the facility at which the carrier was being detained upon written request of the superintendent of the facility. Expenses incurred under this section are treated as expenses described in section 13 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-7

Voluntarily admitted carriers; unauthorized absences; prevention of health threat

Sec. 7. (a) A carrier who:

- (1) poses a serious and present danger to the health of others;
- (2) has been voluntarily admitted to a hospital or other facility for the treatment of tuberculosis or another dangerous communicable disease; and

(3) who leaves the facility without authorized leave or against medical advice or who fails to return from authorized leave; shall be reported to a health officer by the facility not more than twenty-four (24) hours after discovery of the carrier's absence.

(b) If a health officer fails or refuses to institute or complete necessary legal measures to prevent a health threat (as defined in IC 16-41-7-2) by the carrier, the case shall be referred to a designated health official for appropriate action under this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-8

Discharge reports; release orders

Sec. 8. (a) A designated health official may file a report with the court that states that a carrier who has been detained under this article may be discharged without danger to the health or life of others.

(b) The court may enter an order of release based on information presented by the designated health official or other sources.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-9

Release of carriers from state penal institutions; advanced reports; jurisdiction of health officers

Sec. 9. (a) Not more than thirty (30) days after the proposed release from a state penal institution of a prisoner who is known to have:

- (1) tuberculosis in a communicable stage; or
- (2) other dangerous communicable disease;

the chief administrative officer of the penal institution shall report to the state department the name, address, age, sex, and date of release

of the prisoner.

(b) The state department shall provide the information furnished the state department under subsection (a) to the health officer having jurisdiction over the prisoner's destination address.

(c) Each health officer where the prisoner may be found has jurisdiction over the released prisoner.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-10

Nonresident indigent carriers; transfer to legal residences

Sec. 10. (a) The administrator of a hospital or other facility for the treatment of tuberculosis or other dangerous communicable disease may transfer or authorize the transfer of a nonresident indigent carrier to the carrier's state or county of legal residence if the carrier is able to travel. If the carrier is unable to travel, the administrator may have the carrier hospitalized until the carrier is able to travel.

(b) Costs for the travel and hospitalization authorized by this section shall be paid by the:

(1) carrier under section 13 of this chapter; or

(2) state department if the carrier cannot pay the full cost.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-11

Emergency detention

Sec. 11. (a) To protect the health of health care personnel, emergency medical personnel, firefighters, law enforcement officers, correctional officers, or the public health in an emergency, the court may order a health officer or law enforcement officer to take a person into custody and transport the person to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, care, treatment, and, if necessary, temporary detention.

(b) If the person described in subsection (a) is already institutionalized, the court may order the institutional facility to hold the person.

(c) Orders under this section may be issued in an ex parte proceeding on an affidavit of the designated health official. The affidavit must set forth the specific facts on which the order is sought and must be served on the person immediately on apprehension or detention. An order under this section may be executed at any time.

(d) On a determination by the court that probable cause exists to believe that:

(1) the person described in subsection (a) presents a serious and present danger to health (as defined in IC 16-41-7-2); and

(2) irreparable harm is likely to result to others if the person is not immediately prevented from engaging in the activities that pose a serious and present danger to health;

the court shall issue an order imposing on the person the least restrictive limitations, including detention, that are necessary to eliminate the health threat.

(e) A person may not be held under this section longer than seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, without a court hearing to determine if the emergency hold should continue.

(f) Notice of the hearing on the continuation of the emergency hold must be served on the person held under this section at least twenty-four (24) hours before the hearing. The notice must specify the following:

- (1) The time, date, and place of the hearing.
- (2) The grounds and underlying facts on which the emergency hold is sought.
- (3) The person's right to appear at the hearing and to cross-examine witnesses.
- (4) The person's right to court appointed counsel under section 2 of this chapter.

(g) The court may order the emergency or continued holding of a person under this section if the court finds, by clear and convincing evidence, that the person would pose an imminent health threat to others if released. However, the emergency hold may not continue longer than five (5) days unless a petition to implement medically necessary procedures to protect the public's health and the health of persons described in subsection (a) is filed under section 1 of this chapter. If a petition is filed, the limitations imposed by the court may continue until a hearing on the petition is held under section 1 of this chapter. The hearing must occur not more than five (5) days after the filing of the petition, excluding Saturdays, Sundays, and legal holidays.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-12

Refusal of admission to facilities; actions against persons and licensed facilities

Sec. 12. (a) The superintendent or the chief executive officer of the facility to which a carrier has been ordered under this chapter may decline to admit a patient if the superintendent or chief executive officer determines that there is not available adequate space, treatment staff, or treatment facilities appropriate to the needs of the patient.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars (\$1,000) per violation per day against a person who:

- (1) fails to comply with IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters; or
- (2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters.

(c) The state department may commence an action against a facility licensed by the state department under either subsection (b) or the licensure statute for that facility, but the state department may not bring an action arising out of one (1) incident under both statutes. *As added by P.L.2-1993, SEC.24.*

IC 16-41-9-13

Costs of care or treatment

Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier:

(1) provides inaccurate or misleading information; or

(2) later becomes able to pay the full cost of care;

the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under section 11 of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this chapter, shall be reimbursed by the state under IC 16-21-7 to the extent funds have been appropriated for reimbursement.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-14

Violations

Sec. 14. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense. *As added by P.L.2-1993, SEC.24.*